

Fiscal Note

State of Alaska
2022 Legislative Session

Bill Version:	HCS CSSB 45(FIN)
Fiscal Note Number:	7
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Identifier: SB045CS(FIN)-DOR-TAX-5-10-22
Title: AGE FOR NICOTINE/E-CIG; TAX E-CIG.
Sponsor: STEVENS
Requester: (H) Finance

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Tax Division
OMB Component Number: 2476

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2023 Appropriation Requested	Included in Governor's FY2023 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2023	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

1252 DGF Temp (DGF)	600.0		1,200.0	1,200.0	1,200.0	1,200.0	1,200.0
Total	600.0	0.0	1,200.0	1,200.0	1,200.0	1,200.0	1,200.0

Estimated SUPPLEMENTAL (FY2022) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2023) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? Yes
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/22

Why this fiscal note differs from previous version/comments:

The committee substitute (1) extends the existing tax on other tobacco products other than cigarettes (OTP) to electronic smoking products (ESP) but would tax ESPs at 25% of wholesale value; (2) provides that batteries and marijuana smoking products are not subject to the ESP 25% tax; (3) requires that the tax collected on ESPs be accounted for separately in the general fund and designates the purpose of the revenue; and (4) changes the effective date to 1/1/2023. Changes in Revenues based on data from the Spring 2022 Revenue Forecast, incorporate minor changes to assumptions from the prior fiscal note, and are shown as 1252 Designated General Fund Temp. Removed inflation assumption for revenue estimates in FY2027 and FY2028.

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FISCAL NOTE ANALYSIS

STATE OF ALASKA
2022 LEGISLATIVE SESSION

Analysis

Background

Alaska's excise tax on other tobacco products (OTP) is levied at a rate of 75% of the wholesale value. Currently, all revenue from the tax on OTP is deposited into the General Fund. This bill would extend the existing tax on OTP to electronic smoking products (ESPs) but would tax ESPs at 25% of wholesale value. Currently, ESPs do not fall under the definition of tobacco products and are not subject to tax at the state level. Batteries and marijuana smoking products would not be taxable under this bill. The tax rate for OTP would remain unchanged at 75% of the wholesale value. This bill would levy the tax when an ESP is brought into the state for sale or when an ESP is manufactured in the state for sale in the state. The person bringing an ESP into the state for sale or manufacturing the product in the state would be required to be licensed by the Tax Division. There is an application fee of \$50 for a tobacco products license. This bill also raises Alaska's legal age for nicotine consumption from 19 to 21, to conform with federal law. This bill would be effective January 1, 2023.

Revenue Impact

No revenue impact is expected from the age change, as sellers have already adjusted selling practices to reflect federal law.

The Department of Revenue (Department) estimates that taxing ESPs at 25% of the wholesale price would generate an additional \$0.6 million in revenue in FY2023 (representing a half year of tax), then \$1.2 million in FY2024 and beyond. These revenue impacts do not account for potential increases in wholesale value due to inflation. The bill designates the purpose of revenue collected for education, programs, and advertising relating to the hazards of ESPs. The Department has reflected this revenue under a temporary designated general fund code.

These estimates use updated data from the Matanuska-Susitna Borough's tax on ESP sales and updated population data to develop an estimated tax base for Alaska. Since there is no statewide data available for ESP sales, there is a wide range of uncertainty around the revenue estimates. Given the wide range of uncertainty, no additional adjustment was made to FY2024 revenue estimates to account for potential stockpiling of ESPs in advance of the effective date of the tax.

Department research suggests that some ESPs currently brought into the state are purchased by the final consumer over the internet. Shipments to the final consumer would not be taxable under this bill because the excise tax is only levied on products brought into the state for sale or manufactured in the state for sale in the state. This fiscal analysis does not include ESPs purchased online by the final consumer.

Implementation Cost

This bill would require the Department to update its Tax Revenue Management System (TRMS) and Revenue Online (ROL) which allows a taxpayer to file a return online. The update would consist of reprogramming both systems, updating the return rules in TRMS and testing both systems thoroughly to verify that they function as expected. We would also need to update the current tax return forms. However, this bill would not require the Department of Revenue to make material changes to its Tax Revenue Management System (TRMS). Therefore, there would be no cost to the Department of Revenue for implementation.

The Department does not anticipate any continuing costs or additional staff needs. The Department does estimate that there will be new taxpayers — the specialty shops that bring ESPs into the state for sale — which will be an additional administrative burden on the Division, but one that the Department can absorb.